



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 4407-99
20 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 15 May 1981 for two years at age 24. At that time, you had completed three years of active service on a prior enlistment. During the period 10 November 1981 to 19 August 1982 you received nonjudicial punishment on three occasions. Your offenses were three absences from your appointed place of duty, three instances of disobedience and disrespect, and writing a bad check.

On 31 August 1982 you were notified of separation processing by reason of misconduct. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. On 2 September 1982 you received your fourth nonjudicial punishment for three absences from restricted musters. On 9 October 1982 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with a discharge under other than honorable conditions. You were so discharged on 21 October 1982.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service and your contentions, in effect, that your post service

mental illness and diagnosed sleep apnea may have had an impact on your conduct while in the Navy. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given the frequency of your misconduct. There is no evidence in the record concerning mental illness or sleep apnea and the medical evaluations you submitted do not conclusively show that your illness led to your misconduct while in the Navy. In this regard, some of your offenses, such as the bad check, disobedience and disrespect, clearly were not the result of a sleep problem. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans benefits based on your first period of honorable service. Therefore, if you have been denied benefits, you should appeal that denial under procedures established by the Department of Veterans Affairs.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director